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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,150	03/13/2004	Thomas J. Danley	82543	6794

7590

08/01/2006

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EXAMINER

PHILLIPS, FORREST M

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,150

Applicant(s)

DANLEY ET AL.

Examiner

Forrest M. Phillips

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/13/04, 4/12/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hook (US4860367).

With respect to claim 1 Hook discloses an apparatus (10 in figure 1) for reproducing sound comprising a body; a driver (22 in figure 4) for reproducing a desired sound; and an acoustic passageway having first and second passageway portions, the first passageway portion (24 in figure 3) being defined by a portion of the body and the second passageway portion being defined by an exterior boundary (column 5 lines 7-19 column 6 lines 60-68).

With respect to claim 2 Hook further discloses wherein the first acoustic passageway portion (24 in figure 3) comprises a horn located within the body of the apparatus (column 5 lines 16-19).

With respect to claim 3 Hook further discloses wherein the body has exterior surfaces thereof and the boundary defining the second acoustic passageway portion comprises at least one of the exterior surfaces of the body or a boundary of the environment within which the apparatus is placed (column 5 lines 7-19).

With respect to claim 4 Hook further discloses wherein the environment is a wall, floor or ceiling (Column 5 lines 25-27).

With respect to claim 10 Hook discloses a method for reproducing sound with a speaker, the method comprising providing a body having an acoustical passageway that defines a first portion of a horn (24 in figure 3); and using boundaries external to the body to define a second portion of the horn to effectively increase the size of the horn (column 5 lines 7-19, column 6 lines 60-68).

With respect to claim 11 Hook further discloses wherein the body has exterior surfaces thereof and the step of using boundaries external to the body comprises: using at least one of the exterior surfaces of the body or a boundary of the environment within which the apparatus is placed to define the second portion of the horn (column 5 lines 7-19 and column 6 lines 60-68).

With respect to claim 12 Hook further discloses wherein using a boundary of the environment within which the apparatus is placed comprises a wall, floor or ceiling to define at least a portion of the second portion of the horn (column 5 lines 25-27).

With respect to claim 13 Hook discloses a kit for reproducing sound comprising a body having a driver (22 in figure 4) for reproducing a desired sound and an acoustic passageway having a first and second passageway portions, the first passageway portion (24 in figure 3) being defined by a portion of the body and the second passageway portion being defined by an exterior boundary; and instructions for positioning the body in a manner that uses the exterior boundary to define the second

passageway portion of the acoustic passageway (column 5 lines 7-19, column 6 lines 60-68).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hook in view of Albrecht (Us2589319).

With respect to claim 5 Hook discloses the apparatus of claim 1.

Hook does not disclose wherein the body defines at least one handle for lifting or carrying the apparatus.

Albrecht discloses wherein the body defines at least one handle(46 in figure2) for lifting or carrying the apparatus.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Albrecht to have a handle on a speaker enclosure to render the enclosure portable.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hook in view of Albrecht as applied to claim 5 above, and further in view of Westerbeke Jr.(US6116374) .

With respect to claim 6 Hook in view of Albrecht discloses the apparatus according to claim 5 wherein the body is generally rectangular in shape and has a plurality of external surfaces, and the handle having a first opening on one side of the body and a second opening, the openings being connected to form a passage through the body of the apparatus.

Hook in view of Albrecht does not disclose wherein the second opening is on a second side of the body.

Westerbeke discloses handle openings (22 in figure 1) on different sides of the body.

With respect to claim 7 Westerbeke further discloses wherein the first and second openings are located adjacent a corner of the body and form the corner of the body.

Albrecht discloses a post like handle to be gripped when lifting or carrying the apparatus.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Westerbeke to have handles on the corners of the apparatus with the post like handle of Hook in view of Albrecht.

The motivation for doing so would have been to have the handle be in an inconspicuous location.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hook in view of George (US6425456).

With respect to claim 8 Hook discloses an apparatus for reproducing sound comprising: a first speaker (10 in figure 1) having a body defining a horn and a horn opening and a second speaker having a body and a horn and a horn opening, the first and second speakers being positioned opposite one another and having both horn openings generally opposite one another to form an array of speakers (figure 7).

Hook does not disclose wherein the horn openings are in a corner thereof, or that the speakers are adjacent to one another to form a side-by-side array.

George discloses an apparatus for reproducing sound comprising a first speaker having a body and a horn and a horn opening (44 in figure 3) located in a corner thereof.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of George to have the horn opening be in the corner and on the side of the apparatus, thus allowing for a side-by-side array of speakers.

The motivation for doing so would have been to allow the speaker to be a stand-alone unit as opposed to reliant upon a wall for stability.

With respect to claim 9 the addition of another array of speakers would constitute a mere duplication of parts, it has been held that mere duplication of the essential working part of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ8.

With respect to claim 14 Hook discloses an apparatus for reproducing sound (10 in figure 1) comprising: a body having a driver (22 in figure 4) for reproducing sound, the body being generally rectangular in shape and having a plurality of external surfaces.

Albrecht discloses a handle (46 in figure 2) having a first opening located on one side of the body and a second opening, the openings being connected to form a passage through the body of the apparatus.

Westerbeke discloses handle openings (22 in figure 1) on different sides of the body.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Westerbeke to have the handles on the corner of the apparatus with the teachings of Albrecht to have the handle have openings located to allow a passage through the body of the apparatus of Hook.

The motivation for doing so would have been to have the handle be in an inconspicuous place.

With respect to claim 15 Westerbeke further discloses wherein the first and second openings are located adjacent a corner of the body and form the corner of the body.

Albrecht discloses a post like handle to be gripped when lifting or carrying the apparatus.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Powell (US6910548); and McCuller (US5821471).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forrest M. Phillips whose telephone number is

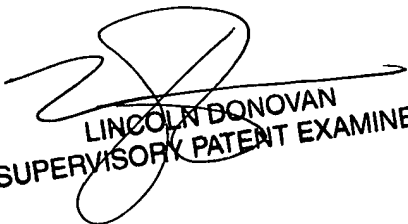
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5712729020. The examiner can normally be reached on Monday through Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 5712721988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FP


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER